



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/986,452	11/08/2001	Yehuda HersHKovits	P-3864-US	5080

27130 7590 04/04/2005

EITAN, PEARL, LATZER & COHEN ZEDEK LLP
10 ROCKEFELLER PLAZA, SUITE 1001
NEW YORK, NY 10020

EXAMINER

SWERDLOW, DANIEL

ART UNIT PAPER NUMBER

2644

DATE MAILED: 04/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/986,452

Applicant(s)

HERSHKOVITS ET AL.

Examiner

Daniel Swerdlow

Art Unit

2644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 29-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 29-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. The declaration filed on 16 December 2004 under 37 CFR 1.131 is sufficient to overcome the Pecone reference. New rejections are made below based on new grounds.

Accordingly, this Office action is non-final.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 29 through 34 are rejected under 35 U.S.C. 102(e) as being anticipated by Wachel (US Patent 6,795,933).

4. Regarding Claim 29, Wachel discloses a method using a fail-over mechanism for network cards (i.e., transferring telecommunications transmissions) comprising: using a PCI bus connector (Fig. 2; column 2, lines 22-23) to establish a connection between a transition card (Fig. 1, reference 106; column 2, lines 12-16) that corresponds to the rear I/O card claimed and a backup main card (Fig. 4, reference 350; column 3, lines 7-13) that corresponds to the second front card claimed upon receiving an OE signal (column 3, line 66 through column 4, line 4) that corresponds to failure indication claimed. Wachel further discloses the transition card (i.e., rear

Art Unit: 2644

I/O card) connected to a primary main card (i.e., first front card) through connector pins (column 2, lines 45-48) when the OE signal is in its other state (i.e., no failure indication is received).

5. Regarding Claim 30, Wachel discloses a method using a fail-over mechanism for network cards (i.e., transferring telecommunications transmissions) comprising: using a PCI bus midplane (i.e., backplane traces associated with a PCI bus) (Fig. 2; column 2, lines 22-23) to establish a connection between a transition card (Fig. 1, reference 106; column 2, lines 12-16) that corresponds to the rear I/O card claimed and a backup main card (Fig. 4, reference 350; column 3, lines 7-13) upon receiving an OE signal (column 3, line 66 through column 4, line 4) that corresponds to failure indication claimed. Wachel further discloses the transition card (i.e., rear I/O card) connected to a primary main card (i.e., first front card) through connector pins (i.e., via a through connection) (column 2, lines 45-48) when the OE signal is in its other state (i.e., no failure indication is received).

6. Regarding Claim 31, Wachel discloses a method using a fail-over mechanism for network cards (i.e., transferring telecommunications transmissions) comprising: using a PCI bus midplane (i.e., allocating a portion of a PCI bus) (Fig. 2; column 2, lines 22-23) to establish a connection (i.e., for communication) between a transition card (Fig. 1, reference 106; column 2, lines 12-16) that corresponds to the rear I/O card claimed and a backup main card (Fig. 4, reference 350; column 3, lines 7-13) upon receiving an OE signal (column 3, line 66 through column 4, line 4) that corresponds to failure indication claimed. Wachel further discloses the transition card (i.e., rear I/O card) connected to a primary main card (i.e., first front card) through connector pins (i.e., via a through connection) (column 2, lines 45-48) when the OE signal is in its other state (i.e., no failure indication is received).

Art Unit: 2644

7. Regarding Claim 32, Wachel discloses a device using a fail-over mechanism for network cards (i.e., transferring telecommunications transmissions) with a transition card (Fig. 1, reference 106; column 2, lines 12-16) that corresponds to the rear card claimed comprising: a flip-flop (Fig. 5; column 3, line 60 through column 4, line 4) that corresponds to the isolation relay claimed adapted to establish a connection (i.e., route incoming signals) between a transition card (Fig. 1, reference 106; column 2, lines 12-16) that corresponds to the rear card claimed and a backup main card (Fig. 4, reference 350; column 3, lines 7-13) using a PCI bus midplane (i.e., through a portion of a PCI bus) (Fig. 2; column 2, lines 22-23) to upon receiving an OE signal (column 3, line 66 through column 4, line 4) that corresponds to failure indication claimed.

Wachel further discloses the transition card (i.e., rear I/O card) connected to a primary main card (i.e., first front card) through connector pins (i.e., via a through connection) (column 2, lines 45-48) when the OE signal is in its other state (i.e., no failure indication is received).

8. Regarding Claim 33, Wachel discloses a device using a fail-over mechanism for network cards (i.e., transferring telecommunications transmissions) comprising: a flip-flop (Fig. 5; column 3, line 60 through column 4, line 4) that corresponds to the control circuit claimed which, upon receiving an OFFLINE signal that corresponds to the indication signal claimed and is associated with a primary main card that corresponds to the first front card claimed currently connected through connector pins (i.e., via a through connection) (column 2, lines 45-48) when the OFFLINE signal is in its inactive state (i.e., no failure indication is received) (column 3, line 66 through column 4, line 4) is adapted to establish a connection (i.e., redirect communications) from a transition card (Fig. 1, reference 106; column 2, lines 12-16) that corresponds to the rear card claimed to a backup main card that corresponds to the second front card claimed (Fig. 4,

Art Unit: 2644

reference 350; column 3, lines 7-13) using a PCI bus midplane (i.e., through a portion of a PCI bus) (Fig. 2; column 2, lines 22-23).

9. Regarding Claim 34, Wachel further discloses using the PCI bus to communicate between the network cards (i.e., the indication is received over a portion of the PCI bus) (column 4, lines 32-35).

Response to Arguments

10. Applicant's arguments with respect to claims 29 through 34 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Swerdlow whose telephone number is 571-272-7531. The examiner can normally be reached on Monday through Friday between 7:30 AM and 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh H. Tran can be reached on 571-272-7564. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

Application/Control Number: 09/986,452

Page 6

Art Unit: 2644

system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'D. Swerdlow', with a long horizontal stroke extending to the right.

Daniel Swerdlow
Examiner
Art Unit 2644

ds
22 March 2005